



<b>DOCKET</b>	
<b>03-QCTA-1</b>	
<b>DATE</b>	<b>MAY 27 2004</b>
<b>RECD.</b>	<b>MAY 28 2004</b>

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May 27<sup>th</sup>, 2004

Docket Unit  
California Energy Commission  
Docket No. 03-QCTA-1  
1516 Ninth Street, MS4  
Sacramento, California 95814-5512

Dear Sir or Madam:

BP America Inc. is pleased to provide brief comments in response to CEC's proposed rulemaking titled "Approval of Technical Assistance Providers and Certifiers for the California Climate Action Registry". BP North America Inc. is the organizational arm of BP Plc, which is based in London. BP is a recognized leader in developing Greenhouse Gas (GHG) accounting and reporting protocols, including procedures for auditing and verification of reported GHG data.

BP America, Inc. is one of the charter members of the California Climate Action Registry (CCAR) and has been an active supporter of its operation since state law created it. BP's representative participated in the May 10<sup>th</sup> public workshop on the proposed rulemaking to provide some oral comments. BP would like to take the opportunity and offer further comments for CEC's consideration while undertaking to finalize this rulemaking:

- **BP is requesting that the final adoption of the proposed rule be postponed by 2-3 months to allow for adequate discussion of the issues raised with CEC staff and among the members of the California Climate Action Registry.**
  - ✓ The background material and the notice of the May 10<sup>th</sup> workshop were very obscure and did not provide adequate time for interested parties to participate;
  - ✓ The May 10<sup>th</sup> workshop was very poorly attended and there is no sufficient time for resolution of outstanding issues with the CEC and CCAR staff, or with other CCAR members who may be impacted by the rulemaking prior to its current schedule for adoption on June 2<sup>nd</sup>.
  - ✓ The CCAR board is meeting next on June 24<sup>th</sup> and it would need to be briefed and might want to provide comments to the CEC since these regulations might have a direct impact on CCAR operation and its members participation.
- **BP is contending that in trying to codify the procedures for approving technical assistance providers and certifiers the CEC rulemaking has gone beyond the a expectations from a "Voluntary Program" that seeks a balance between credible**

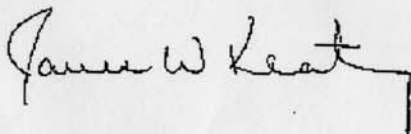
**reporting vs. bureaucratic requirements that detract from participation. Some of the issue raised by BP during the May 10<sup>th</sup> Workshop include:**

- ✓ Definition of "key topics" in Section 2801 (k) needs expansion and clarification,
  - ✓ The rulemaking seems to draw on requirements of the Sarbanes-Oxley Bill in the US Congress and it is not clear that those provisions should apply here,
  - ✓ The state needs to create a credible process without raising the bar so high that the "business case" for participation in CCAR is lost,
  - ✓ The classification of COI as low, medium and high are somewhat helpful, but the medium category is too broad and would be very burdensome both to the companies being audited as well as to the auditing firms,
  - ✓ The need to certify that the CCAR member has no relations with the certifying entity worldwide might be hard to implement, especially for large multi-national corporations that are operating in California through their US subsidiaries,
  - ✓ The program as structured does not allow any flexibility for companies that already have a GHG auditing program in place; on the contrary it requires them to seek other validators with whom the company has no prior relations.
- **BP is concerned that the rulemaking is silent on the applicability of the requirements imposed on third party auditors and other technical service providers to the State agencies implementing the regulation and who might wish to participate in audits or conduct audits of their own. Specifically,**
- ✓ The specifications of the material that needs to be available if a CEC representative wants to visit a member's site are too detailed and create new obligations that currently do not exist in the CCAR protocols,
  - ✓ There is no requirement that the CEC contractor that might be sent to audit a site would meet the same qualifications as expected from technical service providers or third party auditors under this regulation,
  - ✓ The CEC seems to have too broad a jurisdiction in recommending to the Registry not to certify members' data without prior consultation or a conflict resolution process in place.

BP America, Inc. continues to be interested in bringing this process to a satisfactory conclusion to allow this voluntary program under CCAR to serve as a model to registries in other parts of the US. Pending a decision by CEC to postpone the rule adoption by 2-3 months, as requested above, BP America, Inc. stands ready to provide further comments and recommendations, as appropriate.

We remain,

Very truly yours,



James W. Keating  
Group HSSE  
BP America Inc.

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